

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES PLT
WASHINGTON, D.C. 20548

12260

FILE: B-195939; B-195939.2 DATE: December 11, 1979

MATTER OF: General Dynamics Corporation, Quincy D.
Shipbuilding Division; Sun Ship, Inc. 2189

DIGEST: 2 D. 3476

Where [issues in protests are also before court and court indicates it does not want GAO decision, GAO will not consider protests. GAO may reinstate protests if court later requests GAO decision.

3 General Dynamics Corporation, Quincy Shipbuilding Division (General Dynamics) and Sun Ship, Inc. (Sun) protest the award of a contract by the Navy to National Steel and Shipbuilding Company (NASSCO) under request for proposal (RFP) N00024-79-R-2614(S). The RFP is for the construction of the "T-ARC-7" cable vessel. Sun also filed suit in the United States District Court for the District of Columbia, Civil No. 79-2734, seeking declaratory and injunctive relief. General Dynamics later intervened in the court proceedings and both offerors sought to enjoin NASSCO's performance of the contract. For the following reason, we dismiss the protests. 748

On November 20, the court denied plaintiffs' motion for a preliminary injunction and has set up an expedited schedule for all discovery matters and motions in connection with a hearing on the merits. In addition, the court denied Sun's request that the court obtain GAO's expert advice.

Because this matter is in litigation, a final court action would take precedence over any action by this Office and will constitute a final adjudication on the merits. See Seafarers, et al.--Reconsideration, B-194574.6, July 23, 1979, 79-2 CPD 48. Moreover, the

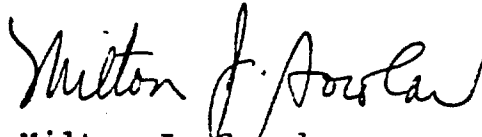
[Protest INVOLVING Contract Award]

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court has expressly indicated that it does not want GAO's decision. In these circumstances, we will not consider the protests unless the court later requests our decision. See City and County of San Francisco, B-188130, March 30, 1978, 78-1 CPD 246; 4 C.F.R. § 20.10 (1979) and KET, Incorporated, B-191949, January 18, 1979, 79-1 CPD 28.

The protests are dismissed.



Milton J. Socolar
General Counsel